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Congress of the United States
House of Representatives

September 10, 2018

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PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

Ms. Michele Brooks
Acting Chief of Staff
Rural Development Innovation Center
Regulations Team Lead
U.S. Department of Agriculture
1400 Independence Ave. SW
Stop 1522, Room 1562
Washington, DC 20250

RE: Rural Utilities Service, Broadband e-Connectivity Pilot Program; Docket No. RUS-18-TELECOM-0004

Dear Ms. Brooks:

Earlier this year, Congress appropriated \$600 million to create a pilot broadband program to provide federal funding for the construction, improvement, and acquisition of facilities and equipment to expand broadband services to rural communities, like those that make up the 19th Congressional District in upstate New York. Rural Utilities Service (RUS) requested comments from stakeholders with an interest in rural broadband deployment.

To ensure the comments contained in this letter are most salient, I held a meeting on August 29, 2018 comprised of small broadband providers, who have a proven record of expanding broadband services in rural communities in my district*. The below comments incorporate their views and input. It should be noted that several of these stakeholders attempted to use past RUS broadband programs without success. In addition, these same stakeholders have used New York State programs with significant success. RUS should learn from past mistakes and be willing to examine successful state level grant programs to ensure federal taxpayer money is spent effectively and efficiently.

Furthermore, RUS must develop a plan that does not penalize residents in states like New York that have already created state-funded programs to expand broadband to rural communities. There are still numerous areas in rural New York that do not have sufficient broadband access, but these areas will likely be the most difficult to access. Other states may be able to expand services in a cheaper way because they have not invested state taxpayer funds for broadband expansion. These states should not benefit at the expense of New Yorkers simply because the remaining expansion in New York is likely to be the most remote – and often most expensive - rural communities.

Broadband Speeds

I urge RUS to set a higher standard for speed and prioritize a provider's demonstrated ability to furnish, maintain, and improve broadband speeds higher than 10 Mbps when considering applicants. The Pilot's description of

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“sufficient access to broadband” defines speed as “10 Mbps downstream, and 1 Mbps Upstream,” but these criteria disadvantage stakeholders that have a proven track record of supplying higher standards of speed using grant funding.

Local providers in my region have successfully received grants through the New NY Broadband Program, which requires speeds of at least 25 Mbps when bringing broadband to unserved and underserved areas. Local New York providers, therefore, are prepared to supply these speeds in rural regions. While I understand this may not be the case in every state, providers in states like New York should not be penalized or have reduced access to Pilot funds because of their already established qualifications to ensure higher, more effective speeds.

In addition to already having to provide higher speeds under state programs, local stakeholders agree that the 10 Mbps standard may not be sufficient for the average household or business in rural New York. The economic benefit of expanding access to broadband, as is a stated goal of the Pilot, will be enhanced by applications such as telemedicine, e-commerce, and online education. With the fast pace of technological advancement, investment in 10Mbps will soon likely be insufficient to support meaningful telemedicine or e-commerce.

As one of the providers in my meeting stated, RUS should not spend limited federal funds on building a broadband network of yesterday or even today. Rather, RUS must support projects by providers who have demonstrated the financial and managerial capabilities necessary to undertake projects using technologies that are scalable to meet the fast approaching future needs of residents. In addition to speed, application determinations should include other factors of a provider’s service, such as affordability, latency, and capacity.

Coverage Mapping

RUS needs to redefine “sufficient access,” with regard to the determination of locations that are in need of broadband expansion. Federal budget language notes that service areas must be assessed using census block groups or tracts under Section 601(d)(10) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(d)(10)). Local stakeholders agree, however, that census data is not the most practical source of information regarding which locations are suitable for awards. Census data is too blunt an instrument when determining coverage in rural areas because sparse population can result in geographically large census blocks. Coverage is misrepresented when a single broadband-covered household in a census block statistically denotes the whole block as served, which is an issue broadband providers have identified through their experience with the Federal Communication Commission’s Form 477 data. This flawed, census-driven methodology disadvantages rural areas such as in upstate New York where there are many providers with complex footprints yet a significant and sometimes scattered portion of uncovered households.

Application Process and Implementation

RUS must consider some administrative problems with past programs. Local providers have noted past issues with receiving RUS-administered awards including cases in which applications were rejected due to technical errors and unclear instructions. RUS should work closely with applicants and communicate throughout the entire application process to fairly judge their submission, as I understand has occurred with RUS programs related to rural electric programs. It is not unusual for smaller providers to expend significant sums to retain outside consultants simply to prepare and submit an application.

To ensure the success of the program and that any projects funded by RUS remain viable for the foreseeable future, RUS should place a premium on projects that are proposed by well-established providers who have a demonstrated history of providing service. The New NY Broadband Program, for example, required potential

recipients of funds to operate at least one network business with at least 500 customers. RUS should consider similar statutory minimums as one safeguard against unproven and potentially unsustainable projects.

To ensure against “over-building or duplicating broadband expansion efforts” as was vaguely described in the federal budget language, RUS should establish a challenge process that includes publication of proposed project service areas and notify existing telecommunications providers currently operating in or adjacent to those areas.

Grants and Loans

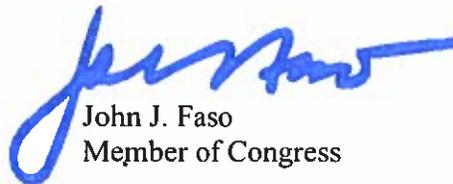
As the Pilot calls for a combination of grants and loans to be awarded, local stakeholders noted that grants would prove more successful in meeting the goals of the program given the higher cost to serve rural areas. This was proven out in both the American Recovery and Reinvestment Act (ARRA) Stimulus Awards for Broadband and the New NY Broadband Program. While the stakeholders who will apply for this program have the best knowledge of underserved areas in their communities, they do not have the same customer density in these rural areas, thus the greater need for grants. Additionally, RUS should work to streamline reimbursement of eligible costs to grant recipients by establishing a phased approach for reimbursements at defined project intervals which will avoid additional carrying costs companies would incur otherwise.

State Minimum Allotment

Given the diversity of broadband standards and needs in each state, RUS should consider a minimum allotment of funds for states. As previously mentioned, states like New York should not be disadvantaged in the program because the state has invested in bringing broadband to the rural areas of the state. RUS should guarantee an allocation of funds by state based upon a data-driven metric.

I am encouraged by RUS’s efforts to receive input on the e-Connectivity Pilot and look forward to the program moving forward. Thank you for your consideration of these comments.

Sincerely,



John J. Faso
Member of Congress

*attendees and participants in the August 29 meeting

Jim Becker, Middleburgh Telephone Company
Glen Faulkner, Margaretville Telephone Company
Jason Miller, Delhi Telephone Company
Dave Fingar, Mid-Hudson Cablevision
Jason Shelton, GTel
Tim Johnson, Otsego Electric Cooperative, Inc.
Mark Schneider, Delaware County Electric Cooperative